

DEC 16 2005

REMARKS

Reconsideration and removal of the grounds for rejection are respectfully requested. Claims 1, 2, 5 and 7-8 were in the application, claim 1 has been amended.

Claims 1-2, 5 and 8 were rejected as being anticipated by Novak, et al. Claim 1 has been amended to positively recite the means for stopping the stroke of the magazine, as discussed in the last response. The examiner agreed that Novak failed to disclose the means for stopping the stroke of the magazine, and claim 1 has now been so amended. Consequently, entry of the amendment is requested to place the application in condition for allowance.

Claim 7 was rejected as being obvious over Novak. Claim 7 depends from and contains all the limitations of amended claim 1 therein. More specifically there is no teaching or suggestion for a safety closure having means for stopping a stroke of the magazine, which allows for partially withdrawing the magazine for clearing jams, without allowing accidental complete removal of the magazine, using the elements identified in claim 1. To produce a further translational motion of the magazine with respect to the guide in either direction, the insert portion of the safety closure must be removed from the respective pocket.

In order to uphold a finding of obviousness, there must be some teaching, suggestion or incentive for doing what the applicant has done. ACS Hospital Systs. Inc. v. Montefiori Hospital, 723 F.2d 1572 (Fed. Cir. 1984). Also, "Both the suggestion and the expectation of success must be found in the prior art, not in the applicant's disclosure." In re Dow Chemical Co., 837 F.2d 469 (Fed. Cir. 1988).

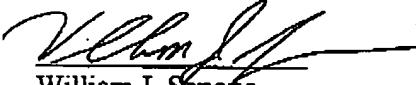
In Novak, movement to the open position is limited by "engagement of pins 102 with the rearward ends of guide slots 104 as shown in Figs. 12 and 13" (col. 5, l. 63-65) While these pins prevent the magazine from being manually detached from the fastener tool 20, there are no means provided to retain the magazine in this position. Consequently, the magazine may accidentally slide forward during cleaning of a jam from the firing channel.

On the other hand the present invention provides a safety closure 49 that has means for stopping the stroke of the magazine, to retain the magazine during cleaning of a jam from the firing channel.

There is nothing in Novak which would lead one skilled in the art to see a need for the safety closure of the applicants' invention.

Based on the above amendments and remarks, favorable consideration and allowance of the application is respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



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